

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-AT-321
)	
Signal One, LLC)	NAL/Acct. No.200232480029
Owner of Antenna Structure #1216312 in)	
Madisonville, Tennessee)	FRN 0005-8247-27
Chattanooga, Tennessee)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: September 30, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Signal One, LLC (“Signal One”), owner of antenna structure #1216312, apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 17.51(b) of the Commission's Rules (“Rules”).¹ Specifically, we find Signal One, LLC apparently liable for failure to continuously exhibit all medium intensity obstruction lighting during daytime hours.

II. BACKGROUND

2. On July 29 and 30, 2002, the antenna structure associated with FCC antenna structure registration (“ASR”) #1216312 and located near Madisonville, Tennessee, was inspected by an agent of the Commission's Atlanta Field Office (“Atlanta Office”). At the time of inspection, 9:45 a.m. on July 29, 2002, and 1:30 p.m. on July 30, 2002, the unpainted structure had no medium obstruction lighting in operation.

3. On July 30, 2002, an agent of the Atlanta Office determined from the Commission ASR database that antenna structure #1216312 was registered to Signal One and that the registration included requirements to maintain a dual lighting system that included medium intensity obstruction lighting during daylight operation. The agent telephoned the listed contact person for Signal One who stated she would check on the outage. The agent telephoned the nearest Flight Service Station of the Federal Aviation Administration (“FAA”), which verified that it had received no report of a light outage for this antenna structure.

4. On July 30, 2002, Signal One's contact person, Tess Jameson, contacted the agent of the Atlanta Office via telephone. According to Ms. Jameson, the structure lighting is monitored by an automatic alarm system, a manual pole of the lighting alarm on this antenna structure failed, and a light

¹ 47 C.F.R. § 17.51(b).

outage report was being made to the FAA because of the alarm poling failure. A technician was also being dispatched to check and repair the tower lighting and alarm.

III. DISCUSSION

5. Section 17.51(b) of the Rules requires that all medium intensity obstruction lighting be exhibited continuously unless otherwise specified. Signal One's antenna structure #1216312 is required to exhibit medium intensity obstruction lighting during daylight hours and red lighting at night. At the time of inspection on July 29 and 30, 2002, no medium intensity obstruction lighting was observed on Signal One's antenna structure #1216312. Signal One had not notified the FAA of the light outage.²

6. Based on the evidence before us, we find Signal One willfully³ and repeatedly⁴ violated Section 17.51(b) of the Rules by failing to continuously exhibit medium intensity obstruction lighting during daylight hours.

7. Pursuant to Section 1.80(b)(4) of the Rules,⁵ the base forfeiture amount for failure to comply with prescribed antenna structure lighting is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Considering the entire record and applying the factors listed above, this case warrants a forfeiture of \$10,000.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Rules,⁸ Signal One, LLC is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 17.51(b) of the Rules by failing to continuously exhibit medium intensity obstruction lighting

² The owner of any registered antenna structure must report immediately to the nearest flight service station of the FAA any observed or otherwise known extinguishment or improper functioning of any flashing obstruction light not corrected within 30 minutes. *See* 47 C.F.R. § 17.48(a).

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁴ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

during daylight hours.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Signal One, LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the *NAL*/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE *NAL*/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Signal One LLC, 5751 Uptain Road, Suite 407, Chattanooga, Tennessee 37411.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

⁹ See 47 C.F.R. § 1.1914.